

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

CASSIUS BROWN AND LINDA BROWN

PLAINTIFFS

VS.

CIVIL ACTION NO.: 1:20-cv-270-LG-RPM

**MEGABUS SOUTHEAST, LLC A
COACH USA CO. AND MAURICE J.
BAILEY**

DEFENDANTS

NOTICE OF REMOVAL

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, SOUTHERN DIVISION:**

COMES NOW Defendant, Megabus Southeast, LLC (“Megabus”), and respectfully files this Notice of Removal of the above referenced cause from the Circuit Court of Harrison County, Mississippi, First Judicial District, to the United States District Court for the Southern District of Mississippi, Southern Division, pursuant to 28 U.S.C. §1441(a), 28 U.S.C. §1446, and 28 U.S.C. §1367. Megabus files this Notice of Removal with full reservation of any and all rights, defenses and objections. In support of this Notice of Removal, Megabus states as follows:

INTRODUCTION

1.

On March 12, 2020, Plaintiffs filed a lawsuit claiming personal injuries and economic loss against Megabus and Maurice J. Bailey (“Bailey”) in the Circuit Court of Harrison County, Mississippi, First Judicial District, Cause No. A2401-2020-149, entitled “*Cassius Brown and Linda Brown v. Megabus Southeast, LLC, a Coach USA Co. and Maurice J. Bailey*”. A true and correct copy of the Complaint is included in the state court record, which is attached hereto *in globo* as Exhibit “1” in accordance with 28 U.S.C. §§1446(a) and 1447(b).

2.

Plaintiffs' lawsuit arises from an alleged incident on Interstate 10 in Harrison County, Mississippi, on March 20, 2019, when a motor coach driven by Bailey was allegedly involved in an accident with Plaintiffs' vehicle. Plaintiffs allege they suffered personal injuries and economic loss as a result of the accident.

3.

Plaintiffs allege that on March 20, 2019, Bailey was negligent in his operation of a Megabus motor coach while merging from an on ramp onto Interstate 10, thereby causing an accident with Plaintiffs' vehicle.

DIVERSITY JURISDICTION EXISTS

4.

Based on the information in the Complaint, Plaintiffs are adult resident citizens of Mississippi. Complaint at ¶¶ I-II.

5.

Megabus is alleged to be a Delaware corporation authorized to do business in Mississippi. Complaint at ¶ III. Indeed, it is a limited liability company organized under the laws of the State of Delaware. See Exhibit "2". Citizenship for limited liability companies is determined by the states of their members. See, e.g., *Carden v. Arkoma Associates*, 494 U.S. 185, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990). Megabus' single member is Independent Bus Company, Inc., a New Jersey Corporation with its principal place of business in New Jersey. See Exhibits "2" and "3". Therefore, Megabus is a New Jersey domiciliary for purposes of diversity.

6.

Bailey has not been served with the Summons and Complaint; however, Bailey is alleged to be an adult resident citizen of Georgia. Complaint at ¶ IV.

7.

Accordingly, the parties are completely diverse in their citizenship and the court has original jurisdiction pursuant to 28 U.S.C. §§1332 and 1441.

THE AMOUNT IN CONTROVERSY IS SATISFIED

8.

Plaintiffs' Complaint does not set forth the specific amount of damages sought. Therefore, Megabus propounded its First Requests for Admissions to Plaintiffs, requesting that Plaintiffs admit the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. On August 4, 2020, Plaintiffs served their Response to Defendant's First Requests for Admission, wherein Plaintiffs admitted the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. See Exhibit "4". Pursuant to 28 U.S.C. § 1446(b)(3), Plaintiffs' Response to Defendant's First Requests for Admission constitute an "other paper" from which Megabus was first able to ascertain this case is removable, and Megabus has timely filed this Notice of Removal following receipt of Plaintiffs' Response to Defendant's First Requests for Admission.

9.

Based upon their Response to Defendant's First Requests for Admission, the damages claimed by the Plaintiffs exceed the sum or value of \$75,000, exclusive of interest and costs.

10.

In accordance with 28 U.S.C. §1446(d), Megabus will provide appropriate Notice of this Removal to the Plaintiffs and to the Circuit Clerk of Harrison County, Mississippi.

11.

Megabus reserves the right to amend or supplement this Notice of Removal.

12.

Megabus reserves all rights to assert and plead any and all defenses to this claim, including but not limited to those defenses specifically enumerated in Rule 12(b) of the Federal Rules of Civil Procedure.

13.

Megabus is entitled to and requests a trial by jury on all issues herein.

WHEREFORE, Defendant, Megabus Southeast, LLC prays that the action entitled “*Cassius Brown and Linda Brown v. Megabus Southeast, LLC, a Coach USA Co. and Maurice J. Bailey*”, pending in the Circuit Court of Harrison County, Mississippi, First Judicial District, Cause No. A2401-2020-149, be removed from the state court docket to the United States District Court for the Southern District of Mississippi, Southern Division.

Respectfully submitted, this the 19th day of August, 2020.

PERRIER & LACOSTE, LLC

/s/ Charles C. Wimberly, III

CHARLES C. WIMBERLY, III (MSB #101375)

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**ATTORNEYS FOR DEFENDANT
MEGABUS SOUTHEAST, LLC**

CERTIFICATE OF SERVICE

I, Charles C. Wimberly, III, attorney for Defendant, Megabus Southeast, LLC, hereby certify that the foregoing Notice of Removal has been filed via the ECF system which sent notification to the following counsel of record this 19th day of August, 2020:

Charles M. Thomas, Esq.
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New Orleans, LA 70163

/s/ Charles C. Wimberly, III